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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,196	03/03/2004	Bruce G. Barman	109771.0240	4907
37287	7590	08/10/2004	EXAMINER	
ROETZEL & ANDRESS 1375 EAST 9TH STREET CLEVELAND, OH 44114			GRAY, LINDA LAMEY	
		ART UNIT	PAPER NUMBER	
		1734		

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/792,196	BARMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Linda L Gray	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 03 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5-9,13-14,16-23 and 25-38 is/are rejected.
- 7) Claim(s) 3,4,10-12,15 and 24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

**Specification**

**1.** The specification is objected to because the status of the parent application should be updated to include the patent number.

**2.** Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

**3.** The abstract of the disclosure is objected to because of the use of "comprising", see MPEP § 608.01(b).

**Claim Objection**

**4.** **Claim 3** is objected to because "component" (L 3) should be "components".

**Claim Rejections - 35 USC § 102**

**5.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**6. Claims 1-2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Becker et al. (US 3,571,559).**

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**Claim 1**, Becker et al. teach an apparatus for manufacturing a foam structure including platform 5/6 for supporting at least two foam components 1 and 2 to be welded together, a foam component positioning/clamping mechanism including items 7', 3 and 4 for positioning and pressing component 1 relative to component 2, and a foam welding head (Fig 3A) mounted to travel along an interface (Fig 2) between the components 1 and 2 and operative to weld components 1 and 2 together (c 3, L 11, to c 4, L 19).

**Claim 2**, the positioning mechanism is configured to press on the components 1 or 2 against another at an interface between components 1 and 2.

**Claim 5**, the foam welding head includes a blade 8 which passes between components 1 and 2 and a heat source 9 proximate to the blade 8.

**Claim 6**, the foam welding head is mounted and powered to travel a linear path along an interface between components 1 and 2.

**Claim 7**, the foam welding head is mounted and powered to travel a path proximate to the positioning mechanism.

**Claim Rejections - 35 USC § 103**

**7.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**8. Claims 3 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al.**

***Claims 3 and 8-9***, Becker et al. do not teach a cutter blade to cut a portion of the components 1 or 2 proximate to the weld.

However, it is conventional in the art of making foam furniture upholstery to cut the welding foam to size after welding according to the manufacturer's specification, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al..

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**9. Claims 13-14, 16-23, and 25-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al. in view of Arai et al. (JP 5-278114).**

**Claims 13-14 and 16-22,** the discussion of Becker et al. applies herein.

**Claims 13, 17, and 22,** Becker et al. do not teach item 9 to be a nozzle with ports connected to a gas source.

However, a nozzle is a conventional alternative as demonstrated by Arai et al., and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have replace one with the other.

**Claim 14,** Becker et al. do not teach a cutter blade to cut a portion of the components 1 or 2 proximate to the weld.

However, it is conventional in the art of making foam furniture upholstery to cut the welding foam to size after welding according to the manufacture's specification, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al..

**Claim 18,** Becker et al. do not specifically recite a track.

However, tracks are a conventional means for supporting moving welding heads thereabove the material being welded in that tracks allow for sufficient speed control, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al..

**Claim 20,** Becker et al. do not teach a rail adjacent the platform 5/6 and the welding head.

However, support rails are conventional in the art of holding articles stationary for welding such that the articles do not move from side to side, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al..

**Claim 21,** Becker et al. teach a heating element attached to the welding head in that such is provided to provide item 9 with heat (c 3, L 44-52).

**Claims 23 and 25-31,** the above discussion of Becker et al. applies herein.

**Claim 23,** Becker et al. do not teach item 9 to be a nozzle with ports connected to a gas source.

However, a nozzle is a conventional alternative as demonstrated by Arai et al., and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have replace one with the other.

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***Claim 23, Becker et al. do not specifically recite a track.***

However, tracks are a conventional means for supporting moving welding heads thereabove the material being welded in that tracks allow for sufficient speed control, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al..

***Claims 23 and 27, Becker et al. do not teach a rail adjacent the platform 5/6 and the welding head.***

However, support rails are conventional in the art of holding articles stationary for welding such that the articles do not move from side to side, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al..

***Claim 28, Becker et al. do not teach a circular cutter blade to cut a portion of the components 1 or 2 proximate to the weld.***

However, it is conventional in the art of making foam furniture upholstery to cut the welding foam to size after welding according to the manufacture's specification, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al..

***Claim 32, note that in Becker et al. items 3 and 4 act as prongs to engage component 1 and 2 on platform 5/6.***

**Allowable Subject Matter**

**10. Claims 4, 15, 10-12, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**11. The following is a statement of reasons for the indication of allowable subject matter:**

**claims 4 and 15,** the prior art of record does not teach providing the cutter on the foam welding head;

**claim 10,** the prior art of record does not teach a gripping mechanism for gripping an internal component for combination with the components; and

**claim 24,** the prior art of record does not teach that the apparatus includes a second welding head and a second track.

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**11.** As allowable subject matter has been indicated, Applicants' duty must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

**Conclusion**

**12.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg llg  
August 6, 2004

Linda Gray  
LINDA GRAY  
PRIMARY EXAMINER